

A BILL TO BE ENTITLED  
AN ACT

To amend Titles 48 and 36 of the Official Code of Georgia Annotated, relating, respectively, to revenue and taxation and local government, so as to provide for implementation of the GREAT plan; to provide for the comprehensive revision of provisions regarding revenue and taxation; to change certain provisions regarding the State Board of Equalization; to provide for additional appeals regarding assessment of ad valorem taxes; to provide for procedures, conditions, and limitations; to provide for the imposition and collection of fees on certain motor vehicles; to provide for powers, duties, and authority of county tax commissioners and the state revenue commissioner regarding such fees; to provide for an income tax credit for low-income families on qualified food expenses; to provide for conditions and limitations; to provide for powers, duties, and authority of the state revenue commissioner with respect to the foregoing; to change certain provisions regarding the tax on the retail purchase, retail sale, rental, storage, use, or consumption of certain tangible property and on services; to change certain provisions regarding definitions; to change certain provisions regarding exemptions; to provide for conforming changes with respect to certain imposition of taxes, collection from dealers, disposition of certain excess taxes, compensation of dealers for reporting and paying taxes, and payment of taxes by certain contractors; to provide for sales tax credit with respect to certain multichannel video programming; to provide for the comprehensive revision of provisions regarding homeowner tax relief grants; to provide for additional tax relief grants for personal use motor vehicles; to provide for limits on valuation increases of homestead property; to provide for related matters; to provide for contingent effective dates and applicability; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-2-18, relating to the State Board of Equalization, as follows:

"48-2-18.

(a) There is established a board composed of the commissioner, the state auditor, and the executive director of the State Properties Commission.

(b) The board created by this Code section shall be designated the State Board of Equalization. The ~~chairman~~ chairperson and administrative officer of the board shall be the commissioner. Each year, when the digest of assessments proposed by the commissioner is complete, the commissioner shall submit the digest to the State Board of Equalization which shall carefully examine the proposed assessments of each class of taxpayers or property and the digest of proposed assessments as a whole to determine that they are reasonably apportioned among the several tax jurisdictions and reasonably uniform with the values set on other classes of property throughout the state. If the board determines that the proposed assessed values of any one or more of the classes of taxpayers or property or the digest as a whole does not reasonably conform to the values set for other property throughout the state, it shall inquire as to the reason for the lack of conformity and shall adjust and equalize the same by either adding or subtracting a fixed percentage to the class of taxpayer, to the class of property, or to the digest as a whole, as the case may be.

(c) As ~~chairman~~ chairperson and chief administrative officer of the board, the commissioner shall furnish to the board all necessary records and files and in this capacity may compel the attendance of witnesses and the production of books and records or other documents as ~~he~~ the commissioner is empowered to do in the administration of the tax laws. After final approval by the State Board of Equalization of the digest of proposed assessments made by the commissioner and after any adjustments by the board as authorized by this Code section are made, the commissioner shall notify within 30 days each taxpayer in writing of the proposed assessment of its property. At the same time, the commissioner shall notify in writing the board of tax assessors of such county, ~~as outlined in Code Section 48-5-511,~~ of the total proposed assessment of the property located within the county of taxpayers who are required to return their property to the commission. If any such taxpayer notifies the commissioner and the board of tax assessors in any such county of its intent to dispute a portion of the proposed assessment within 20 days after receipt of the notice, the county board of tax assessors shall include in the county digest only the undisputed amount of the assessment, and the taxpayer may challenge the commissioner's proposed assessment in an appeal filed in the Superior Court of Fulton County within 30 days of receipt of the notice. In any such appeal the taxpayer shall have the right of discovery as provided in Chapter 11 of Title 9, the 'Georgia Civil Practice Act.' Upon conclusion of the appeal, the taxpayer shall remit to the appropriate counties any additional taxes owed, with interest at the rate provided by law for judgments. Such interest shall accrue from the date the taxes would have been due absent the appeal to the date the additional taxes are remitted.

(d) Within 30 days after receipt of the proposed digest of assessments, the county board of tax assessors shall make the final assessment of the property in question and provide notice to the taxpayer. Such notice and any appeal therefrom shall be accomplished as is provided by Code Sections 48-5-306 and 48-5-311 or Code Sections 48-5-306.2 and 48-5-311.1. In the event of an appeal, the department shall, upon request of the local board of tax assessors and without any charge or cost therefor, provide the local board of tax assessors with any and all technical assistance available from the resources of the department, including without limitation expert testimony by the employees of the department.

(e) Assessments made in accordance with subsection (d) of this Code section shall be added to the regular county digest at the time the digest is transmitted to the commissioner or at such time as the digest is otherwise required to be compiled.

(f) The notice and appeal procedures provided for in this Code section shall not apply to any decision of the board relating to the assessed value of motor vehicle property.

(g) The provisions of this Code section shall not apply ~~with respect~~ to appeals which are within the jurisdiction of the Ad Valorem Assessment Review Commission."

**SECTION 1-2.**

Said title is further amended by adding a new Code section to read as follows:

"48-5-306.2.

(a) In addition to the appeal provided for in Code Section 48-5-306, each taxpayer shall be authorized to appeal the assessment if such assessment exceeds the returned value by 5 percent or more. Notice of this additional opportunity to appeal shall be included in the tax bill mailed to each taxpayer.

(b)(1) The notice required to be given under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. If the assessment of the value of the taxpayer's property is changed, the notice shall contain:

- (A) The amount of the previous assessment;
- (B) The amount of the current assessment;
- (C) The year for which the new assessment is applicable;

(D) A brief description of the assessed property broken down into real and personal property classifications;

(E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced; and

(F) The name and phone number of the person in the assessors' office that is administratively responsible for the handling of the appeal and that the taxpayer may contact if they have questions about the reasons for the assessment change or the appeals process.

(2) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal, which statement shall be in substantially the following form:

"The amount of your ad valorem tax bill for this year is based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors either followed by an appeal to the county board of equalization or to arbitration and in either case, to appeal to the superior court.

If you wish to file an appeal, you must do so in writing no later than 30 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number)."

(c) Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of the real property subject to such notice:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information at a uniform copying fee not to exceed 25¢ per page; and

(2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information.

(d) Where the assessment of the value of the taxpayer's real property subject to taxation exceeds the returned value of such property by 15 percent or more, the notice required by this subsection shall be accompanied by a simple, nontechnical description of the basis for the new assessment. All documents reviewed in making the assessment, the address of all real properties utilized as comparable properties, and all factors considered in establishing the new assessment shall be made available to the taxpayer pursuant to the terms and conditions of subsection (d) of this Code section, and the notice shall contain a statement of that availability.

(e) Where the assessment of the value of the taxpayer's real property subject to taxation exceeds the returned value of such property by more than 5 percent but by less than 15 percent, a county governing authority may provide by ordinance or resolution that the notice thereof to the taxpayer may be accompanied by a simple, nontechnical description of the basis for the new assessment. Such notice may also contain a statement of the availability of all documents reviewed in making the assessment, the address of all real properties utilized as comparable properties, and all factors considered in establishing the new assessment.

(f) The commissioner shall promulgate such rules and regulations as may be necessary for the administration of this Code section."

### **SECTION 1-3.**

Said title is further amended by adding a new Code section to read as follows:

"48-5-311.1.

(a)(1)(A) Pursuant to Code Section 48-5-306.2, any resident or nonresident taxpayer may appeal from an assessment by the county board of tax assessors to the county board of equalization or to an arbitrator or arbitrators as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions.

(B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any resident or nonresident taxpayer having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors to the county board of equalization or to an arbitrator or arbitrators as to matters of uniformity of assessment of their property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to an arbitrator or arbitrators shall be conducted in the manner specified in subsection (b) of this Code section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of their scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer.

(2)(A) An appeal shall be effected by mailing to or filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306.2 except that for counties or municipal corporations providing for the collection and payment of ad valorem taxes in installments the time for filing the notice of appeal shall be 30 days. A written objection to an assessment of real property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. Any such notice of appeal which is mailed pursuant to this subparagraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question and, if any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306.2. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization.

(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 21 days of the date of mailing of the change notice, institute an appeal to the county board of equalization by mailing to or filing with the county board of tax assessors a written notice of appeal. Any such notice of appeal which is mailed pursuant to this subparagraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.



(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization or in any arbitration proceedings.

(3) In any year in which no county-wide revaluation is implemented, the county board of tax assessors shall make its determination and notify the taxpayer within 180 days after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer within such 180 day period during such year, the appeal shall be automatically referred to the county board of equalization. This paragraph shall not apply to any county whose digest for the current year cannot be approved by the commissioner pursuant to subsection (a) of Code Section 48-5-304.

(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence.

(5)(A) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.

(B) The commissioner, by regulation, may adopt uniform procedures and standards which, when approved by the State Board of Equalization, shall be followed by county boards of equalization in determining appeals.

(6)(A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. A taxpayer may appear before the board concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board the name of any such agent or representative prior to any appearance by the agent or representative before the board.

(B) Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.

(C) If more than one contiguous property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and render separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

(D)(i) The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented by the appeal, shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (f) of this Code section, and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board must sign the decision indicating their vote.

(ii)(I) If the event of an appeal under this Code section, the county board of tax assessors shall specify to the county tax commissioner the higher of the taxpayer's return valuation or 85 percent of the current year's valuation as set by the county board of tax assessors. This amount shall be the basis for a temporary tax bill to be issued. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) If the final determination of the value on appeal is less than the valuation thus used, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in question. Such deduction shall be refunded to the taxpayer and shall include interest on the amount of such deduction at the same rate as specified in Code Section 48-2-35 which shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due or was paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

(III) If the final determination of value on appeal is greater than the valuation thus used, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due to the date the additional taxes are remitted, but in no event shall such interest accrue for a period of more than 180 days. Any taxpayer shall be exempt each taxable year from any such interest owed under this subdivision on such taxpayer's homestead property.

(7) The county governing authority shall furnish the county board of equalization necessary facilities and secretarial and clerical help. The secretary of the county board of tax assessors shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization must consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

(8) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board must consider the study upon any such request.

(b)(1) At the option of the taxpayer an appeal shall be submitted to arbitration.

(2) Following an election by the taxpayer under paragraph (1) of this subsection, an arbitration appeal shall be effected by the taxpayer's filing a written notice of arbitration with the county board of tax assessors. The notice of arbitration shall specifically state the grounds for arbitration. The notice shall be filed within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306.2 except that for counties or municipal corporations providing for the collection and payment of ad valorem taxes in installments the time for filing the notice of appeal shall be 30 days. The county board of tax assessors shall certify to the clerk of the superior court the notice of arbitration and any other papers specified by the person seeking arbitration including, but not limited to, the staff information from the file used by the county board of tax assessors. All papers and information certified to the clerk shall become a part of the record on arbitration. Within 15 days of the filing of the certification to the clerk of the superior court, the judge shall issue an order authorizing the arbitration and appointing a referee.

(3) The arbitration of the correctness of the decision of the county board of tax assessors shall be conducted pursuant to the procedures outlined in Article 2 of Chapter 9 of Title 9 with the following exceptions:

(A) If both parties agree, the matter may be submitted to a single arbitrator. If both parties agree, the referee may serve as the single arbitrator;

- (B) If the parties do not agree to a single arbitrator, then three arbitrators shall hear the appeal. Such arbitrators shall be appointed as provided in Code Section 9-9-67. If one or both parties are unable to select an arbitrator, the appeal shall be heard by a single arbitrator who shall be appointed by the judge of the superior court as provided in Code Section 9-9-67;
- (C) In order to be qualified to serve as an arbitrator, a person must be at least a registered real estate appraiser as classified by the Georgia Real Estate Appraisers Board;
- (D) The arbitrator or a majority of the arbitrators, as applicable, within 30 days after their appointment shall render a decision regarding the correctness of the decision of the county board of tax assessors and, if correction of the decision is required, regarding the extent and manner in which the decision should be corrected. The decision of the arbitrator or arbitrators, as applicable, may be appealed to the superior court in the same manner as a decision of the board of equalization;
- (E) The taxpayer shall be responsible for the fees and costs of such taxpayer's arbitrator and the county shall be responsible for the fees and costs of such county's arbitrator. The two parties shall each be responsible for one-half of the fees and costs of the third arbitrator. In the event the appeal is submitted to a single arbitrator, the two parties shall each be responsible for one-half of the fees and costs of such arbitrator; and
- (F) The board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence.
- (c)(1) The taxpayer or, except as otherwise provided in this paragraph, the county board of tax assessors may appeal decisions of the county board of equalization, the arbitrator, or the arbitrators, as applicable, to the superior court of the county in which the property lies. A county board of tax assessors may not appeal a decision of the county board of equalization changing an assessment by 15 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal and within ten days of receipt of the notice the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by mailing to or filing with the county board of tax assessors a written notice of appeal. Any such notice of appeal which is mailed pursuant to this paragraph shall be deemed to be filed as of the date of the United States Postal Service postmark on such notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization is mailed pursuant to subparagraph (a)(6)(D) of this Code section or within 30 days from the date on which the arbitration decision is rendered pursuant to subparagraph (b)(3)(D) of this Code section, whichever is applicable. The county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by either the county board of tax assessors or the county board of equalization. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer or his or her attorney or agent of record with a copy of the notice of appeal and with the civil action file number assigned to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving their opinions of value and the validity of their proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the taxpayer is unreasonable and authorize the determination of the final value of the property.

(4)(A) The appeal shall be heard before a jury at the first term following the filing of the appeal unless continued by the court upon a showing of good cause. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury shall be held within 40 days following the date on which the appeal is filed with the clerk of the superior court. The time of any hearing shall be set in consultation with the taxpayer and at a time acceptable to the taxpayer between the hours of 8:00 A.M. and 7:00 P.M. on a business day.

(B)(i) The county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county. If the final determination of value on appeal is less than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall receive a deduction in such taxpayer's taxes for the year in question. Such deduction shall be refunded to the taxpayer and shall include interest on the amount of such deduction at the same rate as specified in Code Section 48-2-35 which shall accrue from November 15 of the taxable year in question or the date the final installment of the tax was due or was paid, whichever is later. In no event shall the amount of such interest exceed \$150.00.

- (ii) If the final determination of value on appeal is 80 percent or less of the valuation set by the county board of equalization as to commercial property, or 85 percent or less of the valuation set by the county board of tax assessors as to other property, the taxpayer, in addition to the interest provided for by this paragraph, shall recover costs of litigation and reasonable attorney's fees incurred in the action. This division shall not apply when the property owner has failed to return for taxation the property that is under appeal.
- (iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, the arbitrator, or the arbitrators, as applicable, the taxpayer shall be liable for the increase in taxes for the year in question due to the increased valuation fixed on appeal with interest at the same rate as specified in Code Section 48-2-35. Such interest shall accrue from November 15 of the taxable year in question or the date the final installment of tax was due to the date the additional taxes are remitted, but in no event shall such interest accrue for a period of more than 180 days. Any taxpayer shall be exempt each taxable year from any such interest owed under this division on such taxpayer's homestead property.
- (d) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to make audio recordings of any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview.
- (e) Alternate members of the county board of equalization in the order in which selected shall serve:
- (1) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term;
  - (2) In any appeal from which a member of the board is disqualified and shall be considered a member of the board; or
  - (3) In any appeal at a regularly scheduled or called meeting in the absence of a member and shall be considered a member of the board.
- (f)(1) No member of the county board of equalization shall serve on any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.

- (2) The parties to an appeal to the county board of equalization shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (a)(5)(B) of this Code section. Answers of the county board of equalization shall be part of the decision of the board and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board to the questions. The time prescribed under subparagraph (a)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.
- (g) Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this subsection shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals.
- (h) In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in subparagraph (a)(2)(A) of this Code section and paragraph (2) of subsection (b) of this Code section shall be tolled for a period of 90 days. During this period any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.
- (i) Appeals under this Code section shall not affect the validity of or approval proceedings regarding the tax digest."

#### **SECTION 1-4.**

Said title is further amended by adding a new chapter to read as follows:



"CHAPTER 6A

48-6A-1.

There is imposed an annual motor vehicle fee on every motor vehicle licensed and registered in this state. The fee is imposed at the rate of \$20.00 per motor vehicle for personal use. The tax commissioner of the county shall collect such fee at the same time that tag fees are collected and shall provide for collection procedures. The fee shall be collected from the owner of the motor vehicle. The tax commissioner shall remit the proceeds of such fees to the commissioner in the same manner as other fees pursuant to Code Section 40-2-34 and the commissioner shall deposit such proceeds in the general fund of the state treasury in the same manner as required for other fees under subsection (f) of Code Section 40-2-34."

**SECTION 1-5.**

Said title is further amended by adding a new Code section to read as follows:

"48-7-29.13.

(a) As used in this Code section, the term:

- (1) 'Federal poverty level' income amounts shall be determined by the United States Department of Health and Human Services Poverty Guidelines for the applicable year and applicable family size.
- (2) 'Food expense' shall be the dollar amounts of food expense, multiplied by 12 to obtain the annual expense, as is found on the most recent Internal Revenue Service National Standards chart for the applicable family size for the current year.
- (3) 'Qualified food expense' means the expenditure of funds by the taxpayer for eligible food in the tax year for which the credit under this Code section is claimed and allowed.

(b) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 for qualified food expenses as follows:

Gross income as percentage

of federal poverty level

Amount of income tax credit

0 percent	..... \$0
1 to 10 percent	..... 4 percent multiplied by 10 percent of food expense
11 percent - 20 percent	..... 4 percent multiplied by 20 percent of food expense
21 percent - 30 percent	..... 4 percent multiplied by 30 percent of food expense

31 percent - 40 percent	.....4 percent multiplied by 40 percent of food expense
41 percent - 50 percent	.....4 percent multiplied by 50 percent of food expense
51 percent - 60 percent	.....4 percent multiplied by 60 percent of food expense
61 percent - 70 percent	.....4 percent multiplied by 70 percent of food expense
71 percent - 80 percent	.....4 percent multiplied by 80 percent of food expense
81 percent - 90 percent	.....4 percent multiplied by 90 percent of food expense
91 percent - 100 percent	.....4 percent multiplied by 100 percent of food expense
101 percent - 110 percent	.....4 percent multiplied by 90 percent of food expense
111 percent - 120 percent	.....4 percent multiplied by 80 percent of food expense
121 percent - 130 percent	.....4 percent multiplied by 70 percent of food expense
131 percent - 140 percent	.....4 percent multiplied by 60 percent of food expense
141 percent - 150 percent	.....4 percent multiplied by 50 percent of food expense
151 percent - 160 percent	.....4 percent multiplied by 40 percent of food expense
161 percent - 170 percent	.....4 percent multiplied by 30 percent of food expense
171 percent - 180 percent	.....4 percent multiplied by 20 percent of food expense
181 percent - 199 percent	.....4 percent multiplied by 10 percent of food expense
200 percent and above	..... \$0

(c) In the event that the total amount of the tax credit under this Code section for a taxable year exceeds the taxpayer's income tax liability, any unused tax credit shall, at the option of the taxpayer, be allowed the taxpayer against succeeding years' tax liability or be refunded to the taxpayer. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(d) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section."

#### **SECTION 1-6.**

Said title is further amended by revising Code Section 48-8-1, relating to legislative intent, as follows:

"48-8-1.

It is the intention of the General Assembly in enacting this article to exercise its full and complete power to tax the retail purchase, retail sale, rental, storage, use, and consumption of tangible personal property and the services ~~described in this article~~ except to the extent prohibited by the Constitutions of the United States and of this state and ~~except to the extent of specific exemptions provided in this article~~ to implement the GREAT Plan."

### SECTION 1-7.

Said title is further amended by revising Code Section 48-8-2, relating to definitions regarding sales and use tax, as follows:

"48-8-2.

As used in this article, the term:

- (1) 'Business' means any activity engaged in by any person or caused to be engaged in by any person with the object of direct or indirect gain, benefit, or advantage.
- (2) 'Cost price' means the actual cost of articles of tangible personal property without any deductions for the cost of materials used, labor costs, service costs, transportation charges, or any other expenses of any kind.
- (3) 'Dealer' means every person who:
  - (A) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this article has been paid on the sale at retail or on the use, consumption, distribution, or storage of the tangible personal property;
  - (B) Imports or causes to be imported tangible personal property from any state or foreign country for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state;
  - (C) Is the lessee or renter of tangible personal property and who pays to the owner of the property a consideration for the use or possession of the property without acquiring title to the property;
  - (D) Leases or rents tangible personal property for a consideration, permitting the use or possession of the property without transferring title to the property;
  - (E) Maintains or has within this state, indirectly or by a subsidiary, an office, distribution center, salesroom or sales office, warehouse, service enterprise, or any other place of business;
  - (F) Manufactures or produces tangible personal property for sale at retail or for use, consumption, distribution, or storage for use or consumption in this state;

(G) Sells at retail, offers for sale at retail, or has in ~~his~~ such person's possession for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state tangible personal property;

(H) Solicits business by an agent, employee, representative, or any other person;

(I) Engages in the regular or systematic solicitation of a consumer market in this state, unless the dealer's only activity in this state is:

(i) Advertising or solicitation by:

(I) Direct mail, catalogs, periodicals, or advertising fliers;

(II) Means of print, radio, or television media; or

(III) Telephone, computer, the Internet, cable, microwave, or other communication system; or

(ii) The delivery of tangible personal property within this state solely by common carrier or United States mail.

The exceptions provided in divisions (i) and (ii) of this subparagraph shall not apply to any requirements under Code Section 48-8-14;

(J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in the regular or systematic solicitation of a consumer market in this state through a related dealer located in this state unless:

(i) The in-state dealer to which the affiliate is related does not engage in any of the following activities on behalf of the affiliate:

(I) Advertising;

(II) Marketing;

(III) Sales; or

(IV) Other services; and

(ii) The in-state dealer to which the affiliate is related accepts the return of tangible personal property sold by the affiliate and also accepts the return of tangible personal property sold by any person or dealer that is not an affiliate on the same terms and conditions as an affiliate's return;

As used in this subparagraph, the term 'affiliate' means any person that is related directly or indirectly through one or more intermediaries, controls, is controlled by, is under common control with, or is subject to the control of a dealer described in subparagraphs (A) through (I) of this paragraph or in this subparagraph; or

(K) Notwithstanding any of the provisions contained in this paragraph, ~~with respect to a person that~~ is not a resident or domiciliary of Georgia, ~~that~~ does not engage in any other business or activity in Georgia, and ~~that~~ has contracted with a commercial printer for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in Georgia merely because such person:

(i) Owns tangible or intangible property which is located at the Georgia premises of a commercial printer for use by such printer in performing services for the owner;

(ii) Makes sales and distributions of printed material produced at and shipped or distributed from the Georgia premises of the commercial printer;

(iii) Performs activities of any kind at the Georgia premises of the commercial printer which are directly related to the services provided by the commercial printer; or

(iv) Has printing, including any printing related activities, and distribution related activities performed by the commercial printer in Georgia for or on its behalf,

nor shall such person, absent any contact with Georgia other than with or through the use of the commercial printer or the use of the United States Postal Service or a common carrier, have an obligation to collect sales or use tax from any of its customers located in Georgia based upon the activities described in divisions (i) through (iv) of this subparagraph. In no event described in this subparagraph shall such person be considered to have a fixed place of business in Georgia at either the commercial printer's premises or at any place where the commercial printer performs services on behalf of that person.

~~(L)~~ Each dealer shall collect the tax imposed by this article from the purchaser, lessee, or renter, as applicable, and no action seeking either legal or equitable relief on a sale, lease, rental, or other transaction may be had in this state by the dealer unless the dealer has fully complied with this article. ~~(M)~~ The commissioner shall promulgate such rules and regulations necessary to administer this paragraph, including other such information, applications, forms, or statements as the commissioner may reasonably require.

(4) 'Gross sales' means the:

(A) Sum total of all retail sales of tangible personal property or services without any deduction of any kind other than as provided in this article; or

(B)(i) Charges, when applied to sales of telephone service, made for local exchange telephone service, except local messages which are paid for by inserting coins in coin operated telephones, but including the total amount of the guaranteed charge for semipublic coin box telephone services; except as otherwise provided in division (ii) of this subparagraph.

(ii)(I) If a telephone service is not subject to the tax levied by this chapter, and if the amount charged for such telephone service is aggregated with and not separately stated from the amount paid or charged for any service that is subject to such tax, then the nontaxable telephone service shall be treated as being subject to such tax unless the telephone service provider can reasonably identify the amount paid or charged for the telephone service not subject to such tax from its books and records kept in the regular course of business.

(II) If a telephone service is not subject to the tax levied by this chapter, a customer may not rely upon the nontaxability of such telephone service unless the telephone service provider separately states the amount charged for such nontaxable telephone service or the telephone service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the provider's books and records that are kept in the regular course of business that reasonably identifies the amount charged for such nontaxable telephone service.

(5) 'Lease or rental' means the leasing or renting of tangible personal property and the possession or use of the property by the lessee or renter for a consideration without transfer of the title to the property.

(5.1) 'Prepaid state tax' means the tax levied under Code Section 48-8-30 in conjunction with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of motor fuels for highway use and collected prior to that retail sale. This tax is based upon the average retail sales price as set forth in Code Section 48-9-14.

(5.2) 'Prepaid local tax' means any local sales and use tax which is levied on the sale or use of motor fuel and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, ~~2A, 3, or~~ Article 2A, Part 1 of Article 3, Part 2 of Article 3, or Article 4 of this chapter. Such tax is based on the same average retail sales price as set forth in subparagraph (b)(2)(B) of Code Section 48-9-14. Such price shall be used to compute the prepaid sales tax rate for local jurisdictions by multiplying such retail price by the applicable rate imposed by the jurisdiction. The person collecting and reporting the prepaid local tax for the local jurisdiction shall provide a schedule as to which jurisdiction these collections relate. This determination shall be based upon the shipping papers of the conveyance that delivered the motor fuel to the dealer or consumer in the local jurisdiction. A seller may rely upon the representation made by the purchaser as to which jurisdiction the shipment is bound and prepare shipping papers in accordance with those instructions.

(6) 'Retail sale' or a 'sale at retail' means:

(A) A sale to a consumer or to any person for any purpose other than for resale of any tangible personal property or any services taxable under this article including, but not limited to, any such transactions which the commissioner upon investigation finds to be in lieu of sales. Sales for resale must be made in strict compliance with the commissioner's rules and regulations. Any dealer making a sale for resale which is not

in strict compliance with the commissioner's rules and regulations shall himself or herself be liable for and shall pay the tax;

(B)(i) Except as otherwise provided in division (ii) of this subparagraph, the sale of natural or artificial gas, oil, electricity, solid fuel, transportation, local telephone services, beverages, and tobacco products, when made to any purchaser for purposes other than resale.

(ii) The sale of electricity used directly in the manufacture of a product shall not constitute a retail sale for purposes of this article if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product and shall be exempt from taxation under this article. Such exemption shall be applied to manufacturers located in this state as follows:

(I) For calendar years beginning on or after January 1, 1995, and prior to January 1, 1996, 20 percent of the direct cost of such electricity shall be exempt;

(II) For calendar years beginning on or after January 1, 1996, and prior to January 1, 1997, 40 percent of the direct cost of such electricity shall be exempt;

(III) For calendar years beginning on or after January 1, 1997, and prior to January 1, 1998, 60 percent of the direct cost of such electricity shall be exempt;

(IV) For calendar years beginning on or after January 1, 1998, and prior to January 1, 1999, 80 percent of the direct cost of such electricity shall be exempt; and

(V) For calendar years beginning on or after January 1, 1999, 100 percent of the direct cost of such electricity shall be exempt;

(C) The sale or charges for any room, lodging, or accommodation furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied for a period of 90 continuous days or more;

(D) Sales of tickets, fees, or charges made for admission to, or voluntary contributions made to places of, amusement, sports, or entertainment including, but not limited to:

(i) Billiard and pool rooms;

(ii) Bowling alleys;

(iii) Amusement devices;

(iv) Musical devices;

(v) Theaters;

(vi) Opera houses;

(vii) Moving picture shows;

(viii) Vaudeville;

(ix) Amusement parks;

- (x) Athletic contests including, but not limited to, wrestling matches, prize fights, boxing and wrestling exhibitions, football games, and baseball games;
  - (xi) Skating rinks;
  - (xii) Race tracks;
  - (xiii) Public bathing places;
  - (xiv) Public dance halls; and
  - (xv) Any other place at which any exhibition, display, amusement, or entertainment is offered to the public or any other place where an admission fee is charged;
- (E) Reserved Sales of or charges made for services, including, but not limited to, the following:
- (i) Accounting, financial, or tax preparation;
  - (ii) Architectural;
  - (iii) Banking;
  - (iv) Engineering;
  - (v) Household;
  - (vi) Legal;
  - (vii) Membership fees;
  - (viii) Moving, freight, or storage;
  - (ix) Personal services
  - (x) Photography;
  - (xi) Real property improvement or maintenance;
  - (xii) Acquisition of real property;
  - (xiii) Transportation and travel;
  - (xiv) Vehicle; and
  - (xv) Veterinary.

Such services shall be subject to state sales and use tax only and shall be exempt from any local sales and use tax.

- (F) Charges made for participation in games and amusement activities; or
- (G) Sales of tangible personal property to persons for resale when there is a likelihood that the state will lose tax funds due to the difficulty of policing the business operations because:
  - (i) Of the operation of the business;
  - (ii) Of the very nature of the business;
  - (iii) Of the turnover of so-called independent contractors;
  - (iv) Of the lack of a place of business in which to display a certificate of registration;
  - (v) Of the lack of a place of business in which to keep records;
  - (vi) Of the lack of adequate records;



- (vii) The persons are minors or transients;
- (viii) The persons are engaged in essentially service businesses; or
- (ix) Of any other reasonable reason.

The commissioner may promulgate rules and regulations requiring vendors of persons described in this subparagraph to collect the tax imposed by this article on the retail price of the tangible personal property. The commissioner shall refuse to issue certificates of registration and may revoke certificates of registration issued in violation of his or her rules and regulations.

(7) 'Retailer' means every person making sales at retail or for distribution, use, consumption, or storage for use or consumption in this state.

(8)(A) 'Sale' means any transfer of title or possession, transfer of title and possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means of any kind of tangible personal property for a consideration except as otherwise provided in subparagraph (B) of this paragraph and includes, but is not limited to:

- (i) The fabrication of tangible personal property for consumers who directly or indirectly furnish the materials used in such fabrication;
- (ii) The furnishing, repairing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, repairing, or serving the tangible personal property; or
- (iii) A transaction by which the possession of property is transferred but the seller retains title as security for the payment of the price.

(B) Notwithstanding a dealer's physical presence, in the case of a motor vehicle retail sale or a motor vehicle lease or rental when the lease or rental period exceeds 30 days and when the purchaser or lessee is a resident of this state, the taxable situs of the transaction for the purposes of collecting local sales and use taxes shall be the county of motor vehicle registration of the purchaser or lessee.

(9)(A) 'Sales price' means the total amount valued in money, whether paid in money or otherwise, for which tangible personal property or services are sold including, but not limited to, any services that are a part of the sale and any amount for which credit is given to the purchaser by the seller without any deduction from the total amount for the cost of the property sold, the cost of materials used, labor or service costs, losses, or any other expenses of any kind.

(B) 'Sales price' does not include:

- (i) Cash discounts allowed and taken on sales;
- (ii) The amount charged for labor or services rendered in installing, applying, remodeling, or repairing property sold except to the extent required under subparagraph (E) of paragraph (6) of this Code section; or

(iii) Finance charges, carrying charges, service charges, or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price.

(10) 'Services' means, generally, the providing of an intangible commodity, action, skill, or labor for any remuneration, consideration, or value to an individual consumer but not to any business. Taxable services to an individual shall be subject to state sales and use taxation only up to \$10,000.00 per vendor per year. In no event shall medical, child care, or education services be subject to any sales and use taxation.

~~(10)~~(11) 'Storage' means any keeping or retention in this state of tangible personal property for use or consumption in this state or for any purpose other than sale at retail in the regular course of business.

~~(11)~~(12) 'Tangible personal property' means personal property which may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. 'Tangible personal property' does not mean stocks, bonds, notes, insurance, or other obligations or securities.

~~(12)~~(13) 'Use' means the exercise of any right or power over tangible personal property incident to the ownership of the property including, but not limited to, the sale at retail of the property in the regular course of business.

~~(13)~~(14) 'Use tax' includes the use, consumption, distribution, and storage of tangible personal property as defined in this article."

### **SECTION 1-8.**

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by revising paragraphs (55) and (57) as follows:

"(55)(A) The sale of lottery tickets authorized by Chapter 27 of Title 50 but only to the extent provided for in subparagraph (B) of this paragraph.

(B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or pursuant to Article 2, Article 2A, Part 1 of Article 3, Part 2 of Article 3, or Article 4 of this chapter.

(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply to state sales and use tax but shall only apply to any local sales and use tax levied or imposed at any time;"

"(57)(A) The sale for off-premises human consumption or use of eligible foods and beverages, to the extent provided in subparagraph ~~(B)~~ (C) of this paragraph.

~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt from sales and use tax only if occurring on or after October 1, 1996, and only to the extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

~~(i) For a transaction occurring during the period from October 1, 1996, through September 30, 1997, to the extent of 50 percent of that amount on which, but for this paragraph, sales and use tax would be levied or imposed;~~

~~(ii) For a transaction occurring during the period from October 1, 1997, through September 30, 1998, to the extent of 75 percent of that amount on which, but for this paragraph, sales and use tax would be levied or imposed; and~~

~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100 percent of that amount on which, but for this paragraph, sales and use tax would be levied or imposed.~~

~~(C)~~(B) For the purposes of this paragraph, 'eligible food and beverages' means any food as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that eligible food and beverages shall not include seeds or plants to grow food and shall not include food or drink dispensed by or through vending machines or related operations.

(C)(i) The exemption provided for in this paragraph shall not apply to any local sales and use tax levied or imposed at any time by or pursuant to Article 3 of this chapter.

(ii) Except as otherwise provided in division (i) of this subparagraph, the exemption provided for in this paragraph shall not apply to any local sales and use tax which is effective before October 1, 1996, notwithstanding any provisions to the contrary in the law authorizing or imposing such tax.

(iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the exemption provided for in this paragraph shall apply with respect to any local sales and use tax which becomes effective on or after October 1, 1996, but such exemption shall apply only as to transactions occurring on or after October 1, 1998, notwithstanding any provision to the contrary in the law authorizing or imposing such tax.

(iv) The exemption provided for in this paragraph shall apply to any local sales and use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.

(v) For the purposes of this subparagraph, the term 'local sales and use tax' shall mean any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or by or pursuant to Article 3 of this chapter.

(D) The exemption provided for in subparagraph (A) of this paragraph shall not apply to state sales and use tax.

(E) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;"

### **SECTION 1-9.**

Said title is further amended by adding a new Code section to read as follows:

"48-8-16.

(a) As used in this Code section, the term:

(1) 'Cable service' has the same meaning as that term is defined in 47 U.S.C. Section 522(6).

(2) 'Multichannel video programming service' means the provision or transfer of video programming unless otherwise explicitly excluded in this Code section, including but not limited to satellite broadcasting service, cable service, video services delivered over fiber optic line, coaxial cable, copper wire, Internet protocol, or wireless cable service.

(3) 'Place of primary use' means the street address representative of where the subscriber's use of the multichannel video programming service primarily occurs, which must be the residential street address or the primary business street address of the subscriber and, in the case of wireless cable service, must be within the licensed service area of the service provider.

(4) 'Satellite broadcasting service' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment including direct broadcast satellite service and including all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(5) 'Video services' means video programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20).

(6) 'Wireless cable service' means multichannel multipoint distribution services, with programming broadcast by microwave or any similar means directly to the subscriber, including basic, extended, premium service, and other similar services and including video programming services delivered by commercial mobile radio service providers as defined in 47 C.F.R. 20.3.

(b) A credit against the taxes under this chapter shall be authorized with respect to amounts charged for multichannel video programming services if:

(1) The provider of such services is subject to state or local franchise fees pursuant to Title 36; or

(2) The provider of such multichannel video programming services pays fees or makes other valuable cash or in kind contributions of services or property to any state or local government authorities in this state with an aggregate annual value of at least \$20.00 per Georgia multichannel video programming subscriber. Such credit amount shall not exceed the amount of such fees or the amount of taxes due under this chapter, whichever is less."

## **SECTION 1-10.**

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising Chapter 89, relating to homeowner tax relief grants, as follows:

### **"CHAPTER 89**

36-89-1.

As used in this chapter, the term:

(1) 'Applicable rollback' means a:

(A) Rollback of an ad valorem tax millage rate pursuant to subsection (a) of Code Section 48-8-91 in a county or municipality that levies a local option sales tax;

(B) Rollback of an ad valorem tax millage rate pursuant to subparagraph (c)(2)(C) of Code Section 48-8-104 in a county or municipality that levies a homestead option sales tax;

(C) Subtraction from an ad valorem millage rate pursuant to Code Section 20-2-334 in a local school system that receives a state school tax credit;

(D) Reduction of an ad valorem tax millage rate pursuant to the development of a service delivery strategy under Code Section 36-70-24; and

(E) Reduction of an ad valorem tax millage rate pursuant to paragraph (2) of subsection (a) of Code Section 33-8-8.3 in a county that collects insurance premium tax.

(2) 'County millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a county for county purposes and applying to qualified homesteads in the county, including any millage levied for those special districts reported on the 2004 ad valorem tax digest certified to and received by the state revenue commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of a county school district for educational purposes.

(3) 'Eligible assessed value' means a certain stated amount of the assessed value of each qualified homestead in the state. The amount of the eligible assessed value for any given year shall be fixed in that year's General Appropriations Act.

(4) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a county or municipality which levies ad valorem taxes.

(5) 'Municipal millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied by a municipality for municipal purposes and applying to qualified homesteads in the municipality, including any millage levied for those special tax districts reported on the 2004 City and Independent School Millage Rate Certification certified to and received by the state revenue commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of an independent school district for educational purposes.

(6) 'Qualified homestead' means a homestead qualified for any exemption, state, county, or school, authorized under Code Section 48-5-44.

(7) 'School millage rate' means the net ad valorem tax millage rate, after deducting applicable rollbacks, levied on behalf of a county or independent school district for educational purposes and applying to qualified homesteads in the county or independent school district, not including any millage levied for purposes of bonded indebtedness and not including any millage levied for county or municipal purposes.

(8) 'State millage rate' means the state millage levy.

36-89-2.

In each year the General Assembly shall appropriate funds for homeowner tax relief grants to counties, municipalities, and county or independent school districts, in order to provide for more effective regulation and management of the finance and fiscal administration of the state and pursuant to and in furtherance of the provisions of Article III, Section IX, Paragraph II(c) of the Constitution; Article VII, Section III, Paragraph III of the Constitution; Article VIII, Section I, Paragraph I of the Constitution; and other provisions of the Constitution.

## 36-89-3.

In each year the General Assembly shall appropriate to the Department of Revenue funds to provide homeowner tax relief grants to counties, municipalities, and county or independent school districts. ~~When funds are so appropriated, the~~ The General Appropriations Act shall specify the amount appropriated and the eligible assessed value of each qualified homestead in the state for the specified tax year, ~~which eligible assessed value shall, subject to annual appropriation by the General Assembly, be not less than that specified in the Fiscal Year 2004 General Appropriations Act.~~ If for any reason the amount appropriated in the General Appropriations Act is insufficient to fund the eligible assessed value stated in the General Appropriations Act, the amount appropriated may be adjusted in amendments to the General Appropriations Act.

36-89-4.

Each qualified taxpayer shall receive whichever of the following adjustment amounts provides the maximum benefit to that taxpayer on the tax bill or the applicable tax year:

- (1) A benefit equivalent to a homestead exemption of up to \$18,000.00 of the assessed value of the taxpayer's homestead or the taxpayer's ad valorem property tax liability on the homestead, whichever is lower; or
- (2) A benefit equivalent to a complete homestead exemption from ad valorem taxes for educational purposes.

~~36-89-4.~~ 36-89-5.

~~(a)(1) When funds are appropriated as provided in Code 36-89-3,~~ For taxpayers receiving grants under paragraph (1) of Code Section 36-89-4, such grants shall be allotted to each county, municipality, and county or independent school district in the state as follows:

- (A) Immediately following the actual preparation of ad valorem property tax bills, each county fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the sum of the state and county millage rates to the eligible assessed value of each qualified homestead in the county. The total amount of actual tax credits, so calculated, given to all qualified homesteads in the county shall be the amount of the grant to that county;
- (B) Immediately following the actual preparation of ad valorem property tax bills, each county or independent school district's fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the school millage rate to the eligible assessed value of each qualified homestead in the

county or independent school district. The total amount of actual tax credits, so calculated, given to all qualified homesteads in the county or independent school district shall be the amount of the grant to that county or independent school district; and

(C) Immediately following the actual preparation of ad valorem property tax bills, each municipality's fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the municipal millage rate to the eligible assessed value of each qualified homestead in the municipality. The total amount of actual tax credits, so calculated, given to all qualified homesteads in the municipality shall be the amount of the grant to that municipality.

(2) Credit amounts computed under paragraph (1) of this subsection shall be applied to reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit granted shall not in any case exceed the amount of the otherwise applicable tax liability after the granting of all applicable homestead exemptions except for any homestead exemption under Article 2A of Chapter 8 of Title 48, the 'Homestead Option Sales and Use Tax Act,' as amended, and after the granting of all applicable millage rollbacks.

(b) The grant of funds to each county shall be conditioned on the county's fiscal authority reducing each qualified homestead's otherwise applicable liability for county taxes for county purposes by a credit amount calculated in subparagraph (a)(1)(A) of this Code section.

(c) The grant of funds to each county or independent school district shall be conditioned on the county or independent school district's fiscal authority reducing each qualified homestead's otherwise applicable liability for school taxes by a credit amount calculated in subparagraph (a)(1)(B) of this Code section.

(d) The grant of funds to each municipality shall be conditioned on the municipality's fiscal authority reducing each qualified homestead's otherwise applicable liability for municipal taxes by a credit amount calculated in subparagraph (a)(1)(C) of this Code section.

(e) Each fiscal authority shall show the credit amount on the tax bill, together with a prominent notice in substantially the following form: 'This reduction in your bill is the result of homeowner's tax relief enacted by the Governor and the General Assembly of the State of Georgia.'

### 36-89-6.

(a)(1) For taxpayers receiving grants under paragraph (2) of Code Section 38-89-4, such grants shall be allotted to each county or independent school district in the manner provided in paragraph (2) of this subsection.



(2) Immediately following the actual preparation of ad valorem property tax bills, each county or independent school district's fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the school millage rate to the eligible assessed value of each qualified homestead in the county or independent school district. The total amount of actual tax credits, so calculated, given to all qualified homesteads in the county or independent school district shall be the amount of the grant to that county or independent school district.

(3) Credit amounts computed under paragraph (1) of this subsection shall be applied to reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit granted shall not in any case exceed the amount of the otherwise applicable tax liability after the granting of all applicable homestead exemptions except for any homestead exemption under Article 2A of Chapter 8 of Title 48, the 'Homestead Option Sales and Use Tax Act,' as amended, and after the granting of all applicable millage rollbacks.

(b) The grant of funds to each county or independent school district shall be conditioned on the county or independent school district's fiscal authority reducing each qualified homestead's otherwise applicable liability for school taxes by a credit amount calculated in subsection (a) of this Code section.

(c) Each fiscal authority shall show the credit amount on the tax bill, together with a prominent notice in substantially the following form: 'This reduction in your bill is the result of homeowner's tax relief enacted by the Governor and the General Assembly of the State of Georgia.'

~~36-89-5.~~ 36-89-7.

(a) The state revenue commissioner shall administer this chapter and shall adopt rules and regulations for the administration of this chapter, including specific instructions to local governments. The state revenue commissioner may adopt procedures for partial or installment distribution of grants when the commissioner determines that a full distribution will only result in the necessity of return of funds under subsection (b) of this Code section.

(b) If any excess funds remain from the funds granted to any county, municipality, or county or independent school district under this chapter, after the county, municipality, or county or independent school district complies with the credit requirements of Code Section ~~38-89-4~~ 36-89-5 or 36-89-6, such excess funds shall be returned by the county, municipality, or county or independent school district to the Department of Revenue.

~~36-89-6.~~ 36-89-8.

Any credit under this chapter which is erroneously or illegally granted shall be recoverable by the political subdivision granting such credit in the same manner as any other delinquent tax."

### **SECTION 1-11.**

Said title is further amended by adding a new chapter to read as follows:

#### **"CHAPTER 89A**

**36-89A-1.**

As used in this chapter, the term:

- (1) 'County millage rate' means the net ad valorem tax millage rate levied by a county for county purposes and applying to qualified motor vehicles in the county, including any millage levied for those special districts reported on the 2004 ad valorem tax digest certified to and received by the state revenue commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of a county school district for educational purposes.
- (2) 'Eligible assessed value' means a certain stated amount of the assessed value of each motor vehicle in this state to which the tax relief grant under this chapter shall be applicable. The assessed value of motor vehicles shall be determined pursuant to the uniform evaluation of motor vehicles prepared pursuant to Code Section 48-5-442.
- (3) 'Fiscal authority' means the individual authorized to collect ad valorem taxes for a county or municipality which levies ad valorem taxes.
- (4) 'Motor vehicle' means a motor vehicle which is owned or leased by the taxpayer and used solely for personal use.
- (5) 'Municipal millage rate' means the net ad valorem tax millage rate levied by a municipality for municipal purposes and applying to qualified motor vehicles in the municipality, including any millage levied for those special tax districts reported on the 2004 City and Independent School Millage Rate Certification certified to and received by the state revenue commissioner on or before December 31, 2004, but not including any millage levied for purposes of bonded indebtedness and not including any millage levied on behalf of an independent school district for educational purposes.
- (6) 'School millage rate' means the net ad valorem tax millage rate levied on behalf of a county or independent school district for educational purposes and applying to qualified motor vehicles in the county or independent school district, not including any millage

levied for purposes of bonded indebtedness and not including any millage levied for county or municipal purposes.

(7) 'State millage rate' means the state millage levy.

#### 36-89A-2.

Each year, the General Assembly shall appropriate funds for motor vehicle tax relief grants to counties, municipalities, and county or independent school districts pursuant to and in furtherance of the provisions of Article VII, Section IIB, Paragraph I of the Constitution.

#### 36-89A-3.

(a) Each year, the General Assembly shall appropriate to the Department of Revenue funds to provide motor vehicle tax relief grants to counties, municipalities, and county or independent school districts. The General Appropriations Act shall specify the amount appropriated which shall be sufficient for each 12 month period so that each taxpayer receives a credit in an amount equal to the eligible assessed value of each motor vehicle so that the taxpayer is exempt from ad valorem taxes on such motor vehicle.

(b) If for any reason the amount appropriated in the General Appropriations Act is insufficient to fund the eligible assessed value stated in the General Appropriations Act, the amount appropriated may be adjusted in amendments to the General Appropriations Act.

#### 36-89A-4.

(a)(1) Pursuant to the appropriation of funds as provided in Code Section 36-89A-3, such grants shall each month be allotted to each county, municipality, and county or independent school district in this state as follows:

(A) Immediately following the actual preparation of ad valorem property tax bills, each county fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the sum of the state and county millage rates to the eligible assessed value of each motor vehicle in the county. The total amount of actual tax credits, so calculated, given to all motor vehicles in the county shall be the amount of the grant to that county;

(B) Immediately following the actual preparation of ad valorem property tax bills, each county or independent school district's fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the school millage rate to the eligible assessed value of each motor vehicle in the county or independent school district. The total amount of actual tax credits, so calculated, given to all motor vehicles in the county or independent school district shall be the amount of the grant to that county or independent school district; and

(C) Immediately following the actual preparation of ad valorem property tax bills, each municipality's fiscal authority shall notify the Department of Revenue of the total amount of tax revenue which would be generated by applying the municipal millage rate to the eligible assessed value of each motor vehicle in the municipality. The total amount of actual tax credits, so calculated, given to all motor vehicles in the municipality shall be the amount of the grant to that municipality.

(2) Credit amounts computed under paragraph (1) of this subsection shall be applied to reduce the otherwise applicable tax liability on a dollar-for-dollar basis, but the credit granted shall not in any case exceed the amount of the otherwise applicable tax liability.

(b) The grant of funds to each county shall be conditioned on the county's fiscal authority reducing each motor vehicle's otherwise applicable liability for county taxes for county purposes by a credit amount calculated in subparagraph (a)(1)(A) of this Code section.

(c) The grant of funds to each county or independent school district shall be conditioned on the county or independent school district's fiscal authority reducing each motor vehicle's otherwise applicable liability for school taxes by a credit amount calculated in subparagraph (a)(1)(B) of this Code section.

(d) The grant of funds to each municipality shall be conditioned on the municipality's fiscal authority reducing each motor vehicle's otherwise applicable liability for municipal taxes by a credit amount calculated in subparagraph (a)(1)(C) of this Code section.

(e) Each fiscal authority shall show the credit amount on the tax bill, together with a prominent notice in substantially the following form: 'This reduction in your bill is the result of motor vehicle tax relief enacted by the Governor and the General Assembly of the State of Georgia.'

#### 36-89A-5.

(a) The state revenue commissioner shall administer this chapter and shall adopt rules and regulations for the administration of this chapter, including specific instructions to local governments. The state revenue commissioner may adopt procedures for partial or installment distribution of grants when the commissioner determines that a full distribution will only result in the necessity of return of funds under subsection (b) of this Code section.

(b) If any excess funds remain from the funds granted to any county, municipality, or county or independent school district under this chapter, after the county, municipality, or county or independent school district complies with the credit requirements of Code Section 36-89A-4, such excess funds shall be returned by the county, municipality, or county or independent school district to the Department of Revenue.

#### 36-89A-6.

Any credit under this chapter which is erroneously or illegally granted shall be recoverable by the political subdivision granting such credit in the same manner as any other delinquent tax."

## PART II

### SECTION 2-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-5-2, relating to ad valorem taxation definitions, as follows:

"48-5-2.

As used in this chapter, the term:

(1) 'Current use value' of bona fide conservation use property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale and shall be determined in accordance with the specifications and criteria provided for in subsection (b) of Code Section 48-5-269.

(2) 'Current use value' of bona fide residential transitional property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale. The tax assessor shall consider the following criteria, as applicable, in determining the current use value of bona fide residential transitional property:

- (A) The current use of such property;
- (B) Annual productivity; and
- (C) Sales data of comparable real property with and for the same existing use.

(3) 'Fair market value of property' means, except as otherwise provided in Code Section 48-5-2.1, the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. With respect to the valuation of equipment, machinery, and fixtures when no ready market exists for the sale of the equipment, machinery, and fixtures, fair market value may be determined by resorting to any reasonable, relevant, and useful information available including, but not limited to, the original cost of the property, any depreciation or obsolescence, and any increase in value by reason of inflation. Each tax assessor shall have access to any public records of the taxpayer for the purpose of discovering such information.

- (A) In determining the fair market value of a going business where its continued operation is reasonably anticipated, the tax assessor may value the equipment,

machinery, and fixtures which are the property of the business as a whole where appropriate to reflect the accurate fair market value.

(B) The tax assessor shall consider the following criteria in determining the fair market value of real property:

- (i) Existing zoning of property;
- (ii) Existing use of property, including any restrictions or limitations on the use of property resulting from state or federal law or rules or regulations adopted pursuant to the authority of state or federal law;
- (iii) Existing covenants or restrictions in deed dedicating the property to a particular use; and
- (iv) Any other factors deemed pertinent in arriving at fair market value.

(B.1) The tax assessor shall not consider any income tax credits ~~with respect to~~ for real property which are claimed and granted pursuant to either Section 42 of the Internal Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.

(C) Fair market value of 'historic property' as such term is defined in subsection (a) of Code Section 48-5-7.2 means, except as otherwise provided in Code Section 48-5-2.1:

- (i) For the first eight years in which the property is classified as 'rehabilitated historic property,' the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time preliminary certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.2;
- (ii) For the ninth year in which the property is classified as 'rehabilitated historic property,' the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and
- (iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(D) Fair market value of 'landmark historic property' as such term is defined in subsection (a) of Code Section 48-5-7.3 means, except as otherwise provided in Code Section 48-5-2.1:

- (i) For the first eight years in which the property is classified as 'landmark historic property,' the value equal to the greater of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time certification on such property was received by the county board of tax assessors pursuant to subsection (c) of Code Section 48-5-7.3;

(ii) For the ninth year in which the property is classified as 'landmark historic property,' the value of the property as determined by division (i) of this subparagraph plus one-half of the difference between such value and the current fair market value exclusive of the provisions of this subparagraph; and

(iii) For the tenth and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(E) Timber shall be valued at its fair market value at the time of its harvest or sale in the manner specified in Code Section 48-5-7.5.

(F) Fair market value of 'brownfield property' as such term is defined in subsection (a) of Code Section 48-5-7.6 means, except as otherwise provided in Code Section 48-5-2.1:

(i) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the first ten years in which the property is classified as 'brownfield property,' the value equal to the lesser of the acquisition cost of the property or the appraised fair market value of the property as recorded in the county tax digest at the time application was made to the Environmental Protection Division of the Department of Natural Resources for participation under Article 9 of Chapter 8 of Title 12, the 'Hazardous Sites Reuse and Redevelopment Act,' as amended;

(ii) Unless sooner disqualified pursuant to subsection (e) of Code Section 48-5-7.6, for the eleventh and following years, the fair market value of such property as determined by the provisions of this paragraph, excluding the provisions of this subparagraph.

(4) 'Foreign merchandise in transit' means personal property of any description which has been or will be moved by waterborne commerce through any port located in this state and:

(A) Which has entered the export stream, although temporarily stored or warehoused in the county where the port of export is located; or

(B) Which was shipped from a point of origin located outside the customs territory of the United States and on which United States customs duties are paid at or through any customs district or port located in this state, although stored or warehoused in the county where the port of entry is located while in transit to a final destination."

## SECTION 2-2.

Said title is further amended by adding a new Code section to read as follows:

"48-5-2.1.

(a) Pursuant to Article IX, Section IV, Paragraph V(a) of the Constitution, the assessed value of homestead property for state, county, municipal, or educational ad valorem tax purposes shall not be changed from the valuation established for 2007 except as otherwise authorized under this Code section. Additions or improvements to such property shall be appraised for ad valorem tax purposes at their fair market value, which amount shall be added to the owner's 2007 valuation amount.

(b) If such homestead property is sold or transferred to another person, such homestead property shall be appraised for ad valorem tax purposes at the fair market value which shall be the buyer's or transferee's acquisition cost in an arm's length, bona fide transaction.

(c) The 2007 homestead valuations under this Code section may increase by not more than 1 percent annually."

### **PART III**

#### **SECTION 3-1.**

(a) Part I of this Act shall become effective on January 1, 2009, and shall be applicable to all taxable years beginning on or after January 1, 2009; provided, however, that Part I of this Act shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election, which resolution amends the Constitution so as to provide immediate tax relief and authorizing future tax relief pursuant to the GREAT Plan. If such resolution is not so ratified, Part I of this Act shall not become effective and shall stand repealed in its entirety on January 1, 2009.

(b) Part II of this Act shall become effective on January 1, 2009, and shall be applicable to all taxable years beginning on or after January 1, 2009; provided, however, that Part II of this Act shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election, which resolution amends the Constitution so as to freeze homestead values but allow limited future increases and to limit future ad valorem tax revenues unless approved by voters in a referendum. If such resolution is not so ratified, Part II this Act shall not become effective and shall stand repealed in its entirety on January 1, 2009.

(c) This part shall become effective upon the approval of this Act by the Governor or upon the becoming law without such approval.

#### **SECTION 3-2.**

All laws and parts of laws in conflict with this Act are repealed.